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Status of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Report of the Secretary-General

Summary

The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Convention entered into force on 26 June 1987. Further, the General Assembly, by resolution 57/199 adopted the Optional Protocol to the Convention. The Optional Protocol has not yet entered into force.

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I. Introduction

1. The General Assembly, by its resolution 39/46, adopted and opened for signature, ratification and accession the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in the annex to that resolution, and called upon all Governments to consider signing and ratifying the Convention as a matter of priority.

2. The Convention was opened for signature in New York on 4 February 1985. In accordance with its article 27, the Convention entered into force on 26 June 1987, on the thirtieth day after the date of deposit with the Secretary-General of the twentieth instrument of ratification or accession.

3. The General Assembly, in its resolution 57/199, adopted the Optional Protocol to the Convention. The Protocol was opened for signature on 4 February 2003. The Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

II. Implementation of the Convention

4. In its resolution 58/164, the Assembly welcomed the work of the Committee against Torture and took note of its report;[1] urged all States that had not yet done so to become parties to the Convention as a matter of priority; invited all States ratifying or acceding to the Convention and those States that were parties to the Convention and had not yet done so to consider joining the States parties that had already made the declarations provided for in articles 21 and 22 of the Convention and to consider the possibility of withdrawing their reservations to article 20; urged all States parties to notify the Secretary-General of their acceptance of the amendments to articles 17 and 18 of the Convention as soon as possible; urged States parties to comply strictly with their obligations under the Convention, including, in view of the high number of reports not submitted, their obligation to submit reports in accordance with article 19 of the Convention; called upon the United Nations High Commissioner for Human Rights, in conformity with the mandate established in General Assembly resolution 48/141, to continue to provide, at the request of Governments, advisory services for the preparation of national reports to the Committee and for the prevention of torture, as well as technical assistance in the development, production and distribution of teaching material for this purpose; urged States parties to take fully into account the conclusions and recommendations made by the Committee after its consideration of their reports; and requested the Secretary-General to submit to the Commission on Human Rights at its sixtieth session and the General Assembly at its fifty-ninth session a report on the status of the Convention.

5. The Commission on Human Rights, by its resolution 2004/41, called upon all Governments to implement fully the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; and urged all Governments to promote the speedy and full implementation of the Vienna Declaration and Programme of Action (A/CONF.157/24, Part I), in particular Part II, section B, paragraph 5, relating to freedom from torture, in which it is stated that States should abrogate legislation leading to impunity for those responsible for grave violations of human rights such

as torture and prosecute such violations, thereby providing a firm basis for the rule of law. The Commission condemned in particular any action or attempt by States or public officials to legalize or authorize torture under any circumstances, including on grounds of national security, and called upon Governments to eliminate practices of torture. Further, the Commission encouraged States parties to consider limiting the extent of any reservations they lodged to the Convention, to formulate any reservations as precisely and narrowly as possible, to ensure that no reservation was incompatible with the object and purpose of the Convention, and to review regularly any reservations made in respect of the provisions of the Convention with a view to withdrawing them.

III. Status of the Convention

6. As at 15 July 2004, the Convention had been ratified or acceded to by 136 States. In addition, 12 States had signed the Convention.[2]

7. Under article 21 of the Convention, a State party may at any time declare that it recognizes the competence of the Committee against Torture to receive and consider communications to the effect that a State party claims that another State party is not fulfilling its obligations under the Convention. Under article 22, a State party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State party of the provisions of the Convention.

8. As at 15 July 2004, 52 of the States parties to the Convention had made the declarations provided for in articles 21 and 22 of the Convention. In addition, four States parties had made the declaration provided for in article 21 only, thus bringing the total number of declarations under that article to 56. Four States parties had made the declaration provided for in article 22 only, thus bringing the total of declarations under that article to 56.[3]

9. The provisions of articles 21 and 22 entered into force on 26 June 1987, in accordance with paragraph 2 of article 21 and paragraph 8 of article 22.

10. As at 15 July 2004, four States had ratified or acceded to the Optional Protocol to the Convention. In addition, 23 States have signed the Optional Protocol.

IV. Membership of the Committee against Torture

11. The membership of the Committee for 2004 is as follows:

Member	*Term expires in December*
Guibril Camara (Senegal)	2007
Sayed Kassem El Masry (Egypt)	2005
Felice Gaer (United States of America)	2007
Claudio Grossman (Chile)	2007
Andreas Mavrommatis (Cyprus)	2007
Fernando Mariño Menendez (Spain)	2005
Julio Prado-Vallejo (Ecuador)	2007
Ole Vedel Rasmussen (Denmark)	2005
Alexander M. Yakovlev (Russian Federation)	2005
Yu Mengjia (China)	2005

12. The Committee against Torture held its thirty-first and thirty-second sessions at the United Nations Office at Geneva from 10 to 21 November 2003 and 3 to 21 May 2004, respectively. In accordance with article 24 of the Convention, the Committee will submit its annual report, covering its activities at the sessions referred to above, to the States parties and to the General Assembly at its fifty-ninth session.

Notes

[1] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 44* (A/58/44).

[2] For the list of States that have signed, ratified or acceded to the Convention, as well as the dates of their signature, ratification or accession, see www.ohchr.org or www.un.org.

[3] For the text of declarations and reservations, see www.ohchr.org or www.un.org.